

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x CV-07-3524
HEALTH MARK, LLC :
: Plaintiff, :
: :
: vs. :
: :
LEADING EDGE MARKETING, LLC and :
POWERVIBE, LLC :
: Defendants. :
- - - - - x

Defendants, Leading Edge Marketing, LLC and Powervibe, LLC.

By their attorneys, Sargoy, Stein, Rosen & Shapiro, for their answer to the complaint herein state and allege as follows:

1. With respect to the allegations of paragraph 1, defendants deny knowledge or information sufficient to respond.
2. With respect to the allegations of paragraph 2, defendants admit the allegations of this paragraph.
3. With respect to the allegations of paragraph 4, defendants admit that plaintiff has alleged jurisdiction and deny the remaining allegations of this paragraph.
4. With respect to the allegations of paragraph 5 and 6, defendants deny the allegations of these paragraph.
5. With respect to the allegations of paragraph 7, defendants deny the allegations of this paragraph.

6. With respect to the allegations of paragraphs 8, 9, 10 and 11, defendants deny knowledge or information sufficient to respond.

7. With respect to the allegations of paragraph 12, defendants deny the allegations of this paragraph.

8. With respect to the allegations of paragraph 13, defendants deny the allegations of the first sentence of this paragraph, and admit the allegations of the second sentence of this paragraph.

9. With respect to the allegations of paragraph 14 and 15, defendants admit the allegations of these paragraphs.

10. With respect to the allegations of paragraph 16, 17, 18 and 19, defendants deny the allegations of these paragraphs.

11. With respect to the allegations of paragraph 21, defendants admit that plaintiff has asserted rights and denies the remaining allegations of this paragraph.

12. With respect to the allegations of paragraph 22, defendants deny the allegations of this paragraph.

13. With respect to the allegations of paragraph 23, defendants admit that plaintiff seeks an order and deny the remaining allegations of this paragraph.

14. With respect to the allegations of paragraph 24, defendants deny the allegations of this paragraph.

15. With respect to the allegations of paragraphs 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 38, 40 and 41, defendants deny the allegations of this paragraph.

FIRST AFFIRMATIVE DEFENSE

16. The complaint fails to state a claim on which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

17. Plaintiff has abandoned any rights it may have to the trademark.

THIRD AFFIRMATIVE DEFENSE

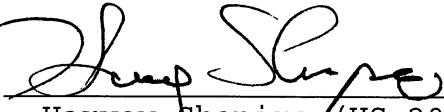
18. Defendants have superior rights over plaintiff to the trademark.

Wherefore, it is respectfully requested that the complaint herein be dismissed and that defendants be awarded their costs

and attorneys' fees incurred herein and such other and further relief that this Court may deem just and proper.

DATED: November 19, 2007
New York, NY

SARGOY, STEIN, ROSEN & SHAPIRO

By: 

Harvey Shapiro (HS 2034)
Attorney for Defendants
1790 Broadway, 14th Floor
New York, New York 10019
(212) 621-8224

To: Peter L. Berger
Levisohn Berger LLP
61 Broadway, 32nd Floor
New York, New York 10006